

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Crim No. 03-852 (MLC)
	:	
v.	:	
	:	
ATLANTIC STATES CAST IRON PIPE	:	NOTICE OF MOTION
COMPANY, A Division of McWane, Inc.,	:	AS TO ALL MOTIONS FILED BY
JOHN PRISQUE, SCOTT FAUBERT,	:	DEFENDANTS ON MARCH 18, 2005
JEFFREY MAURY, DANIEL YADZINSKI,	:	
and CRAIG DAVIDSON,	:	Electronically filed
	:	
	:	(Returnable: July 5, 2005)
Defendants.	:	

TO: AUSA Norville McAndrew
 United States Attorney's Office
 402 E. State Street
 Trenton, NJ 08608

COUNSEL:

PLEASE TAKE NOTICE that the undersigned, attorneys for Defendants Atlantic States Cast Iron Pipe Company, John Prisque, Scott Faubert, Jeffrey Maury, Daniel Yadzinski and Craig Davidson ("Defendants"), will move before the Honorable Mary Little Cooper, United States District Judge for the District of New Jersey, Trenton, New Jersey:

1. To strike surplusage pursuant to *Fed. R. Crim. P.* 7(d);
2. To dismiss Counts 3 and 4 for failing to allege the essential elements of 18 U.S.C. §1001 and §2;
3. To dismiss Overt Act Numbers 1, 3, and 6-14 and Counts 3-4 and 24-27 as being barred by the July 2002 Settlement Agreement between Atlantic States Cast Iron Pipe Company and the State of New Jersey, Department of Law and Public Safety, Office of the Attorney General, Division of Criminal Justice;
4. To dismiss Overt Act Number 9;

5. To dismiss Count 1 for fatal duplicity;
6. To dismiss Counts 12-26 and Counts 28-34 for failing to allege the essential elements of the offenses;
7. To dismiss Counts 12-34 for failing to state an offense under the Clean Water Act and the Clean Air Act – no allegation of criminal intent;
8. To dismiss Counts 1, 8, 9, and 10 for failing to plead the essential elements of obstruction charges;
9. To suppress evidence seized during the February 24, 2000 search warrant and to dismiss Overt Act Numbers 10-14 and Counts 3 and 4;
10. For a *James* hearing and a pretrial determination regarding the admission of statements made by unindicted co-conspirators;
11. To compel pretrial production of Jencks material because the Jencks Act violates Defendants' Constitutional Rights; and
12. To consolidate Counts 24 and 27; Counts 12-26; and Counts 28-33 to avoid multiplicitous charges.

PLEASE TAKE FURTHER NOTICE that in support of the within motions, Defendants reply upon the Briefs and Certification of John J. O'Reilly, Esq., submitted herewith.

PLEASE TAKE FURTHER NOTICE that Defendants request oral argument.

PLEASE TAKE FURTHER NOTICE that Defendants will request that the Orders submitted herewith be entered by the Court.

/S/

John J. O'Reilly, Esq.
Robert W. Ray, Esq.
Pitney Hardin LLP
Attorneys for Defendant Atlantic States Cast Iron
Pipe Company

/S/

Thomas J. Kelly, Esq.
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Attorneys for Defendant Atlantic States Cast
Iron Pipe Company

/S/

Michael Critchley, Esq.
Attorney for Defendant John Prisque

/S/

Michael D'Alessio, Jr., Esq.
Attorney for Defendant Scott Faubert

/S/

Michael Pedicini, Esq.
Attorney for Defendant Jeffrey Maury

/S/

John C. Whipple, Esq.
Attorney for Defendant Daniel Yadzinski

/S/

Vincent J. Nuzzi, Esq.
Nuzzi & Mason LLC
Attorneys for Defendant Craig Davidson

DATED: March 18, 2005

CERTIFICATION OF SERVICE

I hereby certify that on this date the original Notice of Motion, Briefs, Certification and proposed forms of Order were electronically filed. The United States was served via this electronic filing.

/S/

DENISE L. BUERROSSE

DATED: March 18, 2005